



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0393

Introduced 1/26/2007, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

20 ILCS 415/8b.7-5 new	
705 ILCS 505/8	from Ch. 37, par. 439.8
705 ILCS 505/11	from Ch. 37, par. 439.11
705 ILCS 505/22	from Ch. 37, par. 439.22
705 ILCS 505/24	from Ch. 37, par. 439.24
705 ILCS 505/24.5 new	

Amends the Personnel Code. Establishes a preference in an entrance examination of 5 points for a person if: (i) he or she has been discharged from a prison of this State; (ii) he or she has been wrongfully accused of a crime for which he or she was imprisoned; and (iii) either a court of competent jurisdiction finds that the evidence that resulted in his or her conviction was erroneous or that new evidence indicates that the person did not commit the crime for which he or she was imprisoned or the accused received a pardon from the Governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was imprisoned. Amends the Court of Claims Act. Grants the court exclusive jurisdiction over claims for time unjustly served when the person was wrongfully accused of the crime for which he or she was imprisoned and a court of competent jurisdiction finds that the evidence that resulted in his or her conviction was erroneous or that new evidence indicates that the person did not commit the crime for which he or she was imprisoned (in addition to jurisdiction when the person received a pardon by the Governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was imprisoned). Increases the maximum statutory awards to a person released from prison because of these factors. Effective immediately.

LRB095 05275 RLC 25353 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning imprisonment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Personnel Code is amended by adding Section  
5 8b.7-5 as follows:

6 (20 ILCS 415/8b.7-5 new)

7 Sec. 8b.7-5. Unjustly imprisoned preference.

8 (a) A person shall be qualified for a preference in  
9 entrance examinations if: (i) he or she has been discharged  
10 from a prison of this State; (ii) he or she has been wrongfully  
11 accused of a crime for which he or she was imprisoned; and  
12 (iii) either a court of competent jurisdiction finds that the  
13 evidence that resulted in his or her conviction was erroneous  
14 or that new evidence indicates that the person did not commit  
15 the crime for which he or she was imprisoned or the accused  
16 received a pardon from the Governor stating that such pardon is  
17 issued on the ground of innocence of the crime for which he or  
18 she was imprisoned.

19 (b) The preference granted under this Section shall be in  
20 the form of points added to the final grade of the person if  
21 the person otherwise qualifies and is entitled to appear on the  
22 list of those eligible for appointments.

23 (c) A person qualified for a preference under this Section

1 shall receive a preference of 5 points.

2 (d) The Department of Central Management Services shall  
3 adopt rules and implement procedures to verify that any person  
4 seeking a preference under this Section provides documentation  
5 or executes any consents or other documents required by the  
6 Department of Central Management Services or any other State  
7 Department or agency to enable that Department or agency to  
8 verify that the person is entitled to the preference.

9 Section 10. The Court of Claims Act is amended by changing  
10 Sections 8, 11, 22, and 24 and by adding Section 24.5 as  
11 follows:

12 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

13 Sec. 8. Court of Claims jurisdiction. The court shall have  
14 exclusive jurisdiction to hear and determine the following  
15 matters:

16 (a) All claims against the State founded upon any law of  
17 the State of Illinois or upon any regulation adopted thereunder  
18 by an executive or administrative officer or agency; provided,  
19 however, the court shall not have jurisdiction (i) to hear or  
20 determine claims arising under the Workers' Compensation Act or  
21 the Workers' Occupational Diseases Act, or claims for expenses  
22 in civil litigation, or (ii) to review administrative decisions  
23 for which a statute provides that review shall be in the  
24 circuit or appellate court.

1 (b) All claims against the State founded upon any contract  
2 entered into with the State of Illinois.

3 (c) All claims against the State for time unjustly served  
4 in prisons of this State when ~~where~~ the person ~~persons~~  
5 imprisoned (i) was wrongfully accused of the crime for which he  
6 or she was imprisoned and a court of competent jurisdiction  
7 finds that the evidence that resulted in his or her conviction  
8 was erroneous or that new evidence indicates that the person  
9 did not commit the crime for which he or she was imprisoned, or  
10 (ii) received ~~shall receive~~ a pardon from the governor stating  
11 that such pardon is issued on the ground of innocence of the  
12 crime for which they were imprisoned; provided, the amount of  
13 the award is at the discretion of the court; and provided, the  
14 court shall make no award in excess of the following amounts:  
15 for imprisonment of 5 years or less, not more than \$85,350  
16 ~~\$15,000~~; for imprisonment of 14 years or less but over 5 years,  
17 not more than \$170,000 ~~\$30,000~~; for imprisonment of over 14  
18 years, not more than \$199,150 ~~\$35,000~~; and provided further,  
19 the court shall fix attorney's fees not to exceed 25% of the  
20 award granted. On or after the effective date of this  
21 amendatory Act of the 95th General Assembly, ~~On December 31,~~  
22 ~~1996, the court shall make a one-time adjustment in the maximum~~  
23 ~~awards authorized by this subsection (c), to reflect the~~  
24 ~~increase in the cost of living from the year in which these~~  
25 ~~maximum awards were last adjusted until 1996, but with no~~  
26 ~~annual increment exceeding 5%. Thereafter, the court shall~~

1 annually adjust the maximum awards authorized by this  
2 subsection (c) to reflect the increase, if any, in the Consumer  
3 Price Index For All Urban Consumers for the previous calendar  
4 year, as determined by the United States Department of Labor,  
5 except that no annual increment may exceed 5%. For ~~both~~ the  
6 ~~one time adjustment and the subsequent~~ annual adjustments, if  
7 the Consumer Price Index decreases during a calendar year,  
8 there shall be no adjustment for that calendar year. The  
9 changes made by this amendatory Act of the 95th General  
10 Assembly apply to all claims pending on or filed on or after  
11 the effective date. ~~The changes made by Public Act 89-689 apply~~  
12 ~~to all claims filed on or after January 1, 1995 that are~~  
13 ~~pending on December 31, 1996 and all claims filed on or after~~  
14 ~~December 31, 1996.~~

15 (d) All claims against the State for damages in cases  
16 sounding in tort, if a like cause of action would lie against a  
17 private person or corporation in a civil suit, and all like  
18 claims sounding in tort against the Medical Center Commission,  
19 the Board of Trustees of the University of Illinois, the Board  
20 of Trustees of Southern Illinois University, the Board of  
21 Trustees of Chicago State University, the Board of Trustees of  
22 Eastern Illinois University, the Board of Trustees of Governors  
23 State University, the Board of Trustees of Illinois State  
24 University, the Board of Trustees of Northeastern Illinois  
25 University, the Board of Trustees of Northern Illinois  
26 University, the Board of Trustees of Western Illinois

1 University, or the Board of Trustees of the Illinois  
2 Mathematics and Science Academy; provided, that an award for  
3 damages in a case sounding in tort, other than certain cases  
4 involving the operation of a State vehicle described in this  
5 paragraph, shall not exceed the sum of \$100,000 to or for the  
6 benefit of any claimant. The \$100,000 limit prescribed by this  
7 Section does not apply to an award of damages in any case  
8 sounding in tort arising out of the operation by a State  
9 employee of a vehicle owned, leased or controlled by the State.  
10 The defense that the State or the Medical Center Commission or  
11 the Board of Trustees of the University of Illinois, the Board  
12 of Trustees of Southern Illinois University, the Board of  
13 Trustees of Chicago State University, the Board of Trustees of  
14 Eastern Illinois University, the Board of Trustees of Governors  
15 State University, the Board of Trustees of Illinois State  
16 University, the Board of Trustees of Northeastern Illinois  
17 University, the Board of Trustees of Northern Illinois  
18 University, the Board of Trustees of Western Illinois  
19 University, or the Board of Trustees of the Illinois  
20 Mathematics and Science Academy is not liable for the  
21 negligence of its officers, agents, and employees in the course  
22 of their employment is not applicable to the hearing and  
23 determination of such claims.

24 (e) All claims for recoupment made by the State of Illinois  
25 against any claimant.

26 (f) All claims pursuant to the Line of Duty Compensation

1 Act.

2 (g) All claims filed pursuant to the Crime Victims  
3 Compensation Act.

4 (h) All claims pursuant to the Illinois National  
5 Guardsman's Compensation Act.

6 (i) All claims authorized by subsection (a) of Section  
7 10-55 of the Illinois Administrative Procedure Act for the  
8 expenses incurred by a party in a contested case on the  
9 administrative level.

10 (Source: P.A. 93-1047, eff. 10-18-04.)

11 (705 ILCS 505/11) (from Ch. 37, par. 439.11)

12 Sec. 11. Filing claims.

13 (a) Except as otherwise provided in subsection (b) of this  
14 Section and subsection (3) of Section 24, the claimant shall in  
15 all cases set forth fully in his petition the claim, the action  
16 thereon, if any, on behalf of the State, what persons are  
17 owners thereof or interested therein, when and upon what  
18 consideration such persons became so interested; that no  
19 assignment or transfer of the claim or any part thereof or  
20 interest therein has been made, except as stated in the  
21 petition; that the claimant is justly entitled to the amount  
22 therein claimed from the State of Illinois, after allowing all  
23 just credits; and that claimant believes the facts stated in  
24 the petition to be true. The petition shall be verified, as to  
25 statements of facts, by the affidavit of the claimant, his

1 agent, or attorney.

2 (b) Whenever a person who has served a term of imprisonment  
3 and has been discharged from prison because a court of  
4 competent jurisdiction has found that the evidence that  
5 resulted in the person's conviction was erroneous or that new  
6 evidence indicates that the person did not commit the crime for  
7 which he or she was convicted, the clerk of the court of  
8 competent jurisdiction shall transmit this information to the  
9 clerk of the Court of Claims. Whenever a person who has served  
10 a term of imprisonment and has received a pardon by the  
11 Governor stating that such pardon was issued on the ground of  
12 innocence of the crime for which he or she was imprisoned, the  
13 Governor shall transmit this information to the clerk of the  
14 Court of Claims. The clerk of the Court of Claims shall  
15 immediately docket the case for consideration by the Court of  
16 Claims. The Court of Claims shall hear the case and render a  
17 decision within 90 days after its docketing. The transmission  
18 by the clerk of the court of competent jurisdiction or by the  
19 Governor of the information described in this subsection (b) to  
20 the clerk of the Court of Claims is conclusive evidence of the  
21 validity of the claim.

22 (Source: Laws 1945, p. 660.)

23 (705 ILCS 505/22) (from Ch. 37, par. 439.22)

24 Sec. 22. Every claim cognizable by the Court and not  
25 otherwise sooner barred by law shall be forever barred from

1 prosecution therein unless it is filed with the Clerk of the  
2 Court within the time set forth as follows:

3 (a) All claims arising out of a contract must be filed  
4 within 5 years after it first accrues, saving to minors, and  
5 persons under legal disability at the time the claim accrues,  
6 in which cases the claim must be filed within 5 years from the  
7 time the disability ceases.

8 (b) All claims cognizable against the State by vendors of  
9 goods or services under "The Illinois Public Aid Code",  
10 approved April 11, 1967, as amended, must file within one year  
11 after the accrual of the cause of action, as provided in  
12 Section 11-13 of that Code.

13 (c) All claims arising under paragraph (c) of Section 8 of  
14 this Act must be automatically heard by the court ~~filed~~ within  
15 120 days ~~2 years~~ after the person unjustly imprisoned ~~asserting~~  
16 ~~such claim~~ is discharged from prison without the person  
17 unjustly imprisoned being required to file a petition under  
18 Section 11 of this Act ~~, or is granted a pardon by the~~  
19 ~~Governor, whichever occurs later, except as otherwise provided~~  
20 ~~by the Crime Victims Compensation Act.~~

21 (d) All claims arising under paragraph (f) of Section 8 of  
22 this Act must be filed within one year of the date of the death  
23 of the law enforcement officer or fireman as provided in  
24 Section 3 of the "Law Enforcement Officers and Firemen  
25 Compensation Act", approved September 30, 1969, as amended.

26 (e) All claims arising under paragraph (h) of Section 8 of

1 this Act must be filed within one year of the date of the death  
2 of the guardsman or militiaman as provided in Section 3 of the  
3 "Illinois National Guardsman's and Naval Militiaman's  
4 Compensation Act", approved August 12, 1971, as amended.

5 (f) All claims arising under paragraph (g) of Section 8 of  
6 this Act must be filed within one year of the crime on which a  
7 claim is based as provided in Section 6.1 of the "Crime Victims  
8 Compensation Act", approved August 23, 1973, as amended.

9 (g) All claims arising from the Comptroller's refusal to  
10 issue a replacement warrant pursuant to Section 10.10 of the  
11 State Comptroller Act must be filed within 5 years after the  
12 issue date of such warrant.

13 (h) All other claims must be filed within 2 years after it  
14 first accrues, saving to minors, and persons under legal  
15 disability at the time the claim accrues, in which case the  
16 claim must be filed within 2 years from the time the disability  
17 ceases.

18 (i) The changes made by this amendatory Act of 1989 shall  
19 apply to all warrants issued within the 5 year period preceding  
20 the effective date of this amendatory Act of 1989.

21 (j) All time limitations established under this Act and the  
22 rules promulgated under this Act shall be binding and  
23 jurisdictional, except upon extension authorized by law or rule  
24 and granted pursuant to a motion timely filed.

25 (Source: P.A. 86-458.)

1 (705 ILCS 505/24) (from Ch. 37, par. 439.24)

2 Sec. 24. Payment of awards.

3 (1) From funds appropriated by the General Assembly for the  
4 purposes of this Section the Court may direct immediate payment  
5 of:

6 (a) All claims arising solely as a result of the  
7 lapsing of an appropriation out of which the obligation  
8 could have been paid.

9 (b) All claims pursuant to the "Law Enforcement  
10 Officers and Firemen Compensation Act", approved September  
11 30, 1969, as amended.

12 (c) All claims pursuant to the "Illinois National  
13 Guardsman's and Naval Militiaman's Compensation Act",  
14 approved August 12, 1971, as amended.

15 (d) All claims pursuant to the "Crime Victims  
16 Compensation Act", approved August 23, 1973, as amended.

17 (e) All other claims wherein the amount of the award of  
18 the Court is less than \$5,000.

19 (2) The court may, from funds specifically appropriated  
20 from the General Revenue Fund for this purpose, direct the  
21 payment of awards less than \$50,000 solely as a result of the  
22 lapsing of an appropriation originally made from any fund held  
23 by the State Treasurer. For any such award paid from the  
24 General Revenue Fund, the court shall thereafter seek an  
25 appropriation from the fund from which the liability originally  
26 accrued in reimbursement of the General Revenue Fund.

1       (3) From funds appropriated by the General Assembly for the  
2 purposes of paying claims under paragraph (c) of Section 8, the  
3 court must direct payment of each claim and the payment must be  
4 received by the claimant within 60 days after the date that the  
5 funds are appropriated for that purpose.

6       (Source: P.A. 92-357, eff. 8-15-01.)

7       (705 ILCS 505/24.5 new)

8       Sec. 24.5. Reimbursement by county. Except in cases  
9 initiated by the Attorney General, in the case of an unjust  
10 imprisonment where a judgment has been rendered against the  
11 State under this Act in favor of a person who was unjustly  
12 imprisoned, the county where the case for the imprisonment  
13 originated shall reimburse the State for the full amount of the  
14 judgment.

15       This amendatory Act of the 95th General Assembly shall  
16 apply to causes of action filed on or after its effective date.

17       Section 99. Effective date. This Act takes effect upon  
18 becoming law.